

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING POSTACCIDENT HIGHWAY CLEARANCE REQUIREMENTS IN CASES THAT DO NOT INVOLVE SERIOUS INJURY OR A FATALITY; PROVIDING THAT A DRIVER COMPLYING WITH HIGHWAY CLEARANCE REQUIREMENTS DOES NOT COMMIT THE OFFENSE OF TAMPERING WITH OR FABRICATING PHYSICAL EVIDENCE; AND AMENDING SECTION 45-7-207, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-7-207, MCA, is amended to read:

"45-7-207. Tampering with or fabricating physical evidence. (1) A person commits the offense of tampering with or fabricating physical evidence if, believing that an official proceeding or investigation is pending or about to be instituted, ~~he~~ the person:

(a) alters, destroys, conceals, or removes any record, document, or thing with purpose to impair its verity or availability in ~~such~~ the proceeding or investigation; or

(b) makes, presents, or uses any record, document, or thing knowing it to be false and with purpose to mislead any person who is or may be engaged in ~~such~~ the proceeding or investigation.

(2) A person removing a motor vehicle from the main traveled portion of a roadway pursuant to [section 2] is exempt from the provisions of subsection (1)(a).

~~(2)(3)~~ (3) A person convicted of tampering with or fabricating physical evidence shall be imprisoned in the state prison for a term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both."

NEW SECTION. Section 2. Establishing postaccident highway clearance requirements. (1) This section applies to motor vehicle traffic accidents that occur on controlled-access highways and other highways that are divided into two or more lanes clearly marked for traffic in this state.

(2) If an accident occurs on any controlled-access highway or highway divided into two or more lanes

1 and serious physical injury or death is not apparent, the drivers of the motor vehicles involved in the accident,
2 or any other occupant of the motor vehicles involved in the accident who possesses a valid driver's license, shall
3 remove the motor vehicles from the main traveled portion of the roadway into a safe refuge on the shoulder,
4 emergency lane, or median or to a place otherwise removed from the roadway if both of the following apply:

5 (a) the motor vehicle can be moved safely; and

6 (b) the motor vehicle can be normally and safely driven, does not require towing, and can be operated
7 under its own power in its customary manner without further damage or hazard to the motor vehicle, traffic
8 elements, or the roadway.

9 (3) The driver of a motor vehicle involved in an accident may request any person who possesses a valid
10 driver's license to remove the motor vehicle as provided in this section, and the person requested to remove the
11 motor vehicle may comply with the request.

12 (4) The driver or any other person who removes a motor vehicle from the main traveled portion of the
13 roadway as provided in this section before the arrival of a law enforcement officer is not liable or at fault regarding
14 the cause of the traffic accident solely by reason of moving the motor vehicle pursuant to this section.

15 (5) This section does not abrogate or affect a driver's duty or responsibility to fulfill any of the
16 requirements of Title 61, chapter 7, part 1.

17 (6) In exercising management, control, and maintenance of state highways, the department of
18 transportation may require and assist in the removal of the following from the main traveled portion of the
19 roadways in the state highway system:

20 (a) all motor vehicles that are incapacitated for any cause other than having been involved in an accident;

21 (b) all motor vehicles that are incapacitated as a result of being involved in an accident and debris
22 caused by an accident if both of the following apply:

23 (i) serious physical injury or death is not apparent; and

24 (ii) the removal can be accomplished safely by the drivers of the motor vehicles involved or with the
25 assistance of a towing or recovery vehicle and the removal will result in improved safety or convenience of travel
26 on the highway.

27 (7) The department of transportation may not require or assist in the removal of a motor vehicle that is
28 incapacitated as a result of being in an accident in which serious physical injury or death is apparent until a law
29 enforcement officer has made the necessary measurements and diagrams required for an initial accident
30 investigation.

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